

O: 2019 – 24

AN ORDINANCE OF THE TOWN OF PHILLIPSBURG, COUNTY OF WARREN, STATE OF NEW JERSEY, TO REGULATE, CONTROL AND STABILIZE RENTS IN THE TOWN AND AMENDING THE MUNICIPAL CODE TO ADOPT CHAPTER 463 ENTITLED “RENT CONTROL”

WHEREAS, the Town Council of the Town of Phillipsburg finds and determines that the Town of Phillipsburg is in need of a body to mediate over affairs between tenants and landlords in regard to rent prices and habitability concerns; and

WHEREAS, the Town Council of the Town of Phillipsburg finds and determines that the Town of Phillipsburg is undergoing a severe housing shortage and such a crisis leads to an increase in homelessness.

WHEREAS, the Town Council of the Town of Phillipsburg finds and determines that it is in the Town’s interests to regulate, control and stabilize rents in the Town in order to protect the health, safety and general welfare of the residents of the Town of Phillipsburg.

WHEREAS, *N.J.S.A. 40:48-2* and the New Jersey Supreme Court Decisions in *Ingram v. Borough of Fort Lee*, 62 N.J. 521 (1973) and *Helmsley v. Borough of Fort Lee*, 78 N.J. 200 (1978) empowers the Town of Phillipsburg to regulate, control and stabilize rents within the Town of Phillipsburg.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Phillipsburg, Warren County, State of New Jersey as follows:

Section 1

The Municipal Code of the Town of Phillipsburg is hereby amended to include Chapter 463, the title section of which shall read as follows:

Rent Control

Section 2

Chapter 463, Rent Control, of the Municipal Code of the Town of Phillipsburg is hereby adopted to read as follows:

§ 463-1 Definitions. For the purpose of this Chapter, the terms used herein are defined as follows:

- a. **Base Rent:** The present monthly rental, excluding tax surcharge, hardship surcharge, and improvement surcharge for the given unit. The prevailing base rent for each individual unit is that rent which is contained in the actual rent roll filed with the Rent Control Board, or as otherwise defined in this chapter. Thereafter, "base rent" shall mean the base rent charged for the prior twelve-month period, excluding tax surcharge, hardship surcharge, and improvement surcharge for the given unit.
- b. **Capital Improvements:** Includes amounts paid or incurred to add to the value or to substantially extend the useful life of the landlord's property, but shall exclude amounts paid for incidental repairs, maintenance, replacement of fixtures, appliances, equipment, including conversion of heating units, and any other work that is merely replacement, repair, rehabilitation or that is required by law.
- c. **Dwelling:** Includes any building or structure or trailer or land used as a trailer park, rented or offered for rent to one or more tenants or family units. Excluded from this definition and from the operation of this chapter are motels and hotels.

d. Fair Rental: The prevailing rental applicable to each dwelling unit the Town as of the effective date of this ordinance, and as may be increased in accordance with this chapter.

e. Housing Space: That portion of a dwelling rented or offered for rent for living and dwelling purposes to an individual or family unit, together with all privileges, services, furnishings, furniture, equipment, facilities and improvements connected with the use or occupancy of such portion of the property.

§ 463-2 Determination of Rent; Limitations On Rent Increases. Establishment of rents between the landlord and tenants to whom this chapter is applicable shall be determined by the provisions of this chapter. Except as provided in § 463-3, no landlord shall request or receive a percentage increase in rent which is greater than 3% per annum in the next ensuing year. Said limitation of 3% increase per annum shall apply to only occupied units. Vacant units are governed by § 463-3. Those tenants who provide their own heat or the cost of the fuel shall not receive an increase in any one year greater than 2.8% per annum.

§ 463-3 Vacancy Decontrol. Notwithstanding the provisions of § 463-2, a landlord shall be entitled to negotiate a mutually agreeable fair rental with a prospective tenant in accordance with the following:

A. Vacancy decontrol. Upon the voluntary, uncoerced vacation or court-ordered eviction of any tenant for which rent increases are controlled by the terms of the Town of Phillipsburg's rent control ordinance, and upon compliance with this section, at the time of re-rental of a unit pursuant to this section, a landlord may negotiate a rental with the proposed new tenant at a level mutually agreeable between the landlord and the proposed tenant.

B. The landlord must file with the Rent Leveling Board, and provide a copy to the tenant in occupancy, if any, a "vacancy decontrol certification" within 15 days after entering into a lease agreement and accepting a deposit from a new tenant, which shall include the following information:

1. Property address;
2. Apartment number;
3. Vacating tenant's monthly base rent;
4. New tenant's monthly rent;
5. Name of landlord;
6. Address of landlord;
7. Telephone number of landlord;

8. A statement certifying that the vacancy was uncoerced or as a result of court-ordered eviction which statement shall be provided to any tenant then occupying the subject apartment.

C. Vacancy decontrol certifications and the statement provided to any tenant then in occupancy shall be approved by the Rent Leveling Board unless a written objection objecting to the certification is filed with the Rent Leveling Board within 10 days of filing a complete certification. In the event an objection is filed, the procedures in § 463-9 shall apply.

D. Once a unit has received vacancy decontrol pursuant to this section, it shall be subject to the remaining provisions of the Chapter 463 of the Town Code.

E. Notwithstanding the provisions of § 463-6 of this chapter, the filing of a vacancy decontrol certification at the beginning of a lease term shall be deemed sufficient registration of the rental amounts for the given lease term.

F. Antiharassment provision. It shall be impermissible for a landlord, or his agents, to willfully do or commit or cause to be done or committed any of the following: harassment, intimidation or other similar action to a tenant with the intent to cause a tenant to vacate the rental unit; any reduction by the landlord in services with the intent to cause the tenant to vacate the premises; and any vacation of the premises which is coerced by the landlord; provided, however, that this provision shall not limit a landlord, or his agents, from any act specifically authorized under the laws of the State of New Jersey.

G. Violation antiharassment provision. In addition to the penalties set forth in § 463-18, a willful violation of this subsection shall subject the landlord to: (i) on the first offense, loss of privilege to apply for vacancy decontrol at the subject property for a period of not less than one year; (ii) on the second offense, loss of privilege to apply for vacancy decontrol at the subject property for a period of not less than two years; (iii) upon a finding of any further offenses, loss of privilege to apply for vacancy decontrol at the subject property for a period of five years. The complaint for violation of this provision shall be brought in the Municipal Court for the Town of Phillipsburg in accordance with Chapter 463.

§ 463-4 Prohibited Rent Increases. Any rental increase at a time other than at the expiration of a lease or termination of a periodic lease is prohibited and void. Any rental increase not authorized by the provisions of this chapter is prohibited and void.

§ 463-5 Notice of Rent Increase. Any landlord seeking an increase in rent shall first notify that tenant by ordinary mail, with proof of mailing to be evidenced and corroborated by an affidavit of mailing, of the calculations involved in computing the 3% against the previous year's base rent. The notice shall be sent not later than 60 days prior to the date that the increased rent sought is to be effective, and the notice shall detail the prior rent, the amount of the increase, expressed in whole dollars (that figure shall be rounded with .49 dollars and below rounded down to the nearest whole dollar figure and .50 dollars and above rounded up to the nearest whole dollar figure) and the new base rent sought. Rental increases are expressly limited to a single increase per year per unit, regardless of whether the unit is occupied or vacant.

§ 463-6 Registration Statement; Changes to be Reported; Failure to Comply.

A. Within 30 days of the effective date of this chapter, every landlord of a dwelling unit subject to this chapter shall file with the Rent Leveling Board a registration statement on a form to be prepared by such Board, showing:

1. The name, address and telephone number of:

a. The owner, agent and any other person authorized to collect rents on behalf of the owner.

b. The superintendent.

c. The person to be contacted in case of emergency.

2. The rent roll for each apartment building covered by this Chapter, which shall include:

a. The apartment number.

- b. The base rent.
- c. All utilities and services that are included in the base rent.
- d. Surcharges or other charges.
- e. The date the last increase became effective.

3. Rental information which must be verified by documentation.

B. This registration statement is a public record and shall be available for inspection at the office of the Town Clerk during normal business hours.

C. All changes, including rent increases and the dates thereof, shall be reported to the Rent Leveling Board by the landlord within 30 days of the change.

D. For failure to properly register or failure to properly register all changes as provided herein, no landlord shall be permitted to charge or collect any rental increase, surcharge or any other charge until such time as all such registration requirements are met.

E. Notices for rent increases, surcharges or any other charges served before compliance with these registration requirements shall be of no force and effect.

F. A complete rent roll for the immediate preceding year will be submitted to the Rent Leveling Board by January 10 of each following year. Said rent rolls will include the rental status of all units and as to all occupied units the amount being charged for that unit. The failure to timely submit such rent roll will be considered a violation of this chapter and punishable in accordance with its provisions.

§ 463-7 Refunds; Deductions. If, after 30 days of a determination by the

Rent Leveling Board resulting in a refund of moneys to a tenant, the landlord has failed or

neglected to pay the refund, then the tenant may deduct the refund from the next rental payment or payments if necessary. Any retaliatory actions taken by the landlord shall be considered a further violation of this chapter and punishable in accordance with its provisions.

§ 463-8 Restriction of service fees; Application for fee increases.

A. From the effective date of this chapter, no landlord may demand or receive any fees for any new services or for any services previously provided without fees.

B. From the effective date of this chapter, any existing fees presently charged by the landlord may not be increased for any reason under this chapter. Any landlord objecting thereto and seeking to increase an already existing fee may make application for the same to the Rent Leveling Board setting forth the present fee, the service provided, the amount of the increase sought and the reasons for seeking an increase, including documentation of any costs claimed to be the basis for seeking the increased fee. In no event shall the fee be increased in an amount greater than the automatic yearly increase.

§ 463-9 Meetings and hearing of Rent Leveling Board; Complaints; Resolutions.

A. The Rent Leveling Board shall hold regular meetings every other month on the third Thursday at 7:00 p.m. The meetings shall be held during the following months: January, March, May, July, September and November. Special meetings may be called by the Chairperson or by a majority of the members on three days' notice to all Board members. The public shall be notified at least two days in advance of any special meeting.

B. All meetings shall be open to the public and subject to the provisions of the Open Public Meetings Law, P.L. 1975, c. 231.

- C. Two (2) Board members shall constitute a quorum for the purpose of doing business
- D. For any alleged violation of the sections within this chapter there shall be a hearing before the Rent Leveling Board with notice to any landlord by regular and certified mail. Notice shall also be forwarded to any complaining tenant that would be affected by the decision.
- E. The notice shall indicate the date, time and place of the hearing and shall furthermore list the alleged violation by reference to the section.
- F. The owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person or by their attorney and give testimony at the time and place fixed in the complaint, and that the rules of evidence prevailing in courts of law and equity shall not be controlling in such hearings.
- G. A notice of a hearing, giving the hearing date, time and place, shall be sent by the Rent Leveling Board to attorneys or parties at least 10 days prior to the hearing date.
- H. Each determination of the Board shall be issued in the form of a resolution, and it shall set forth findings of fact, the decision, the reasons for the decision, the amounts granted, if any, and the effective date, and a copy of said resolution shall be mailed to the parties to the action.

§ 463-10 Decreases Due to Market Conditions. If the landlord shall determine that the allowable base rent is not supported by the current market conditions and/or economic climate, the landlord shall be entitled to reduce the rent on a unit without disturbing the maximum allowable rent under this chapter.

- A. The landlord shall be permitted to offer a tenant a lower rent than the current rent roll amount by:

1. Offering the lower rent at the beginning of a lease; or

2. Entering an agreement with tenant to increase the rent less than the allowable 3% at the renewal of the lease.

B. The decreased rental amount shall not become the new base rent as provided in this chapter, instead it will be calculated separate and apart from the base rent (maximum allowable rent).

C. The landlord shall notify the Town in writing each time it wishes to depart from the rent roll. Notice shall be provided to the Town within 10 days of the new lease or renewal of a lease. Notice shall include a brief explanation of the reason for the decrease, i.e., market adjustment, increase freeze for senior citizen or disabled person.

D. The landlord's annual rent roll as required under § 462-6(F) must include two entries for each unit which utilizes a lower rent under this section: actual rent charged; and allowable rent under this Chapter.

E. The landlord shall be permitted to increase rents previously decreased under this section to the maximum allowable rent under this chapter at any time provided that the increase is done at the beginning of a new lease term.

F. The Town may rescind this section by ordinance if, at any time, it has determined that the current economic conditions have changed such that this section is no longer necessary. If this section is rescinded, the landlord will be required at the expiration of each lease to increase the rent charged to the base rent in order to continue protecting the maximum allowable rent.

§ 463-11 Increases due to hardship or improvements.

A. Financial Hardship.

1. In case of financial hardship where it is clear that the rental income for the residential property cannot meet mortgage requirements, maintenance costs or otherwise allow the landlord to obtain a fair and reasonable return, the landlord may appeal to the Town Rent Leveling Board, as established herein, for appropriate rental increases indicated by fiscal requirements. The Board may grant hardship increases to landlords to meet commitments and reasonable maintenance costs. Prior to any such appeal to the Board, landlords must send, by certified mail, return receipt requested, addressed to the occupant of each apartment or dwelling unit, a notice of such appeal, setting forth in detail the basis for such appeal.

2. Any increase granted pursuant to this Section shall be built into the base rent for purposes of calculating future rent increases.

3. In any hardship request, the Board shall determine the reasonableness of the landlord's data, figures and calculations and may, in its discretion, make adjustments that it deems necessary.

4. The Board may refuse to grant a hardship increase if the property is not in substantial compliance with the state and local building codes. "Substantial compliance" means 90% qualitatively free of code violations and free of all conditions that threaten health, safety and welfare, such as lack of heat, hot water or electrical hazards.

5. The Board shall prepare application forms for landlords seeking hardship increases.

6. Within ninety (90) days of the receipt of a completed application, the Board shall render a decision on the same.

B. Improvements

1. The landlord may also seek rental increases where major and additional capital improvements or services not previously accorded have been instituted. As a prerequisite for such an increase, notices outlined in Subsection A. of this section must be given, which notices must contain the total cost of the completed capital improvement or service; a projection of useful life of the project in years, as claimed by the landlord for purposes of depreciation for income tax purposes; the average cost of the improvement; the total number of square feet of the dwelling or the dwelling complex; the total square feet demised to the tenant; and the capital improvement increase that the landlord is seeking from each tenant.

2. On receipt of such an appeal, the Rent Leveling Board shall determine if the improvement is major in character and, if so, may permit the increase up to but not in excess of 15% of the amount of the rent on the hearing date.

§ 463-12 Rent Leveling Board created; Terms of Members; Procedures.

A. There is hereby created a Rent Leveling Board within the Town of Phillipsburg to be known as the "Town of Phillipsburg Rent Leveling Board." This Board shall consist of three members, and two (2) alternates, who shall be appointed by the Town Council. Terms of office of each Board member shall be three years. The members shall serve without compensation.

B. Terms of office shall expire on December 31. On the first year of the Board's existence, one member shall serve until December 31 of that year, the second member shall serve until December 31 of the following year, and the third member shall serve until December 31 of the third year.

C. Appointments to unexpired terms of members of the Rent Leveling Board shall be for the remainder of the term. Reappointment shall be for three years.

D. The powers of the Board hereinafter granted and defined are final. Two members thereof shall constitute a quorum, and the majority vote of the Board shall be legally sufficient to render a final determination. All determinations of the Board reflecting the decision, findings and determination shall be final.

E. No member of the Rent Leveling Board shall participate in any decision involving property in which he or she has a financial interest or has an economic benefit.

§ 463-13 Powers of Rent Leveling Board. The Rent Leveling Board shall implement the purposes of this Chapter in the following manner:

A. Promulgate and issue rules and regulations to give effect to the purpose of this chapter and revise, repeal and amend the same from time to time. Sufficient copies of the current rules and regulations shall be on file with the Town Clerk.

B. Supply information and assistance to the landlords and tenants and aid them in compliance with this chapter.

C. Hearings; increases; records.

1. Hold hearings upon reasonable notice; administer oaths; take testimony from landlords, tenants and other witnesses; record findings; and render determinations.

2. Grant rental increases, decreases, rollbacks, increases due to hardship and capital improvements and refunds under the provisions of this chapter.

3. Obtain, keep and maintain all available records and other information necessary to the enforcement of this chapter.

D. Employ counsel and secretarial aid within the limits of the municipal budget.

E. Retain independent experts which the Board, in its discretion, deems necessary if such retainer fits within the limits of the municipal budget.

F. Issue complaints in the Municipal Court for violations of this Chapter.

§ 463-14 Maintenance and service standards to be maintained. During the valid life of this chapter, landlords shall maintain standards of service and maintenance of all real and personal property and equipment in and around the housing spaces and dwellings in accordance with N.J.A.C. 5:23, et. seq, Chapter 447 of the Town Code and any other State or Town law or regulation relating to property maintenance as may be applicable.

§ 463-15 Rental increases to be in compliance with Chapter. No landlord shall, after the effective date of this chapter, charge any rents in excess of what he was receiving from the effective date of this chapter, except as otherwise authorized by operation of this chapter.

§ 463-16 Rollbacks in rent.

A. Rent charges by the landlord shall be reduced or rolled back for any one of the following reasons if so found by the Rent Leveling Board:

1. A decrease in housing space, service, furniture, furnishings, equipment, recreational facilities or any other service as set forth.
2. Failure to perform ordinary repairs, replacements and maintenance.
3. Deterioration of housing space other than normal wear and tear.
4. Charging of a rental in an amount not authorized by this chapter.

B. An individual tenant or group of tenants, on his, her or its own behalf or on behalf of a tenant organization, may file a complaint for a rent rollback based upon the foregoing reasons or any other reason where the value of the housing is reduced.

C. At the same time, the tenant or group of tenants shall request an inspection from the local housing or property maintenance department, which department shall undertake the inspection, submit a report and be available to the Rent Leveling Board at the hearing. The report shall not be conclusive but shall be evidential, along with testimony by the tenants, the landlord and any other witnesses produced to offer relevant material and testimony. At the request of the tenant or landlord, upon his or her objection to an inspection report, the Board may request that the inspector appear at the hearing to be subject to examination and cross-examination. Notice of an inspection by the local housing or property maintenance department shall be given to the landlord, and the landlord or his or its representative may be present at such inspection.

D. Any rent reduction, if granted by the Board, shall remain in effect until the landlord proves to the Board that the deficiency has been corrected.

E. Prior to filing a complaint before the Rent Leveling Board, the tenant or the tenants' group shall first notify the landlord, in writing, to request correction by the landlord of said problem. Failure of the landlord to correct said problem within 15 days of the notice shall allow filing of a complaint with the Rent Leveling Board.

§ 463-17 Initial rents for new rental properties. The owner of newly constructed housing space or dwelling units (other than multiple dwellings) being rented for the first time shall not be restricted to the initial rent he charges. Any subsequent rental increase, however, shall be subject to the provisions of this chapter. For multiple dwellings constructed

after the effective date of P.L.1987, c.153, the provisions of this ordinance which limit the periodic or regular increases in base rentals of dwelling units shall not apply to multiple dwellings constructed after the effective date of this act, for a period of time not to exceed the period of amortization of any initial mortgage loan obtained for the multiple dwelling, or for 30 years following completion of construction, whichever is less.

b. In the event that there is no initial mortgage financing, the period of exemption from a rent control or rent leveling ordinance shall be 30 years from the completion of construction.

§ 463-18 Violations and penalties. Willful violations of any of the provisions hereof, including but not limited to material misstatements contained in any of the notices required herein, shall be punishable in the Municipal Court by a fine of not more than \$2,000, imprisonment for not more than 90 days or a period of community service for not more than 90 days, or any combination thereof. Violations affecting more than one leasehold shall be considered separate violations.

§ 463-19 Construal of provisions. This Chapter, being necessary for the welfare of the Town and its inhabitant, shall be liberally construed to effectuate the general intended purposes.

§ 463-20 Information to be given to new tenants. A landlord renting to a new tenant shall be required to submit the following information to the tenant, in writing, and the failure of the landlord to do so shall constitute a violation of this Chapter:

A. The landlord shall supply a statement to each new tenant, in writing, that there is a rent control and stabilization ordinance or code within the Town of Phillipsburg, and that copies of said ordinance are available to the tenant from the office of the Town Clerk during usual business hours, at a minimal cost.

B. The landlord shall notify the tenant at the time of entering into a lease of all charges to be paid for by the tenant, including the base rent, tax surcharges, hardship surcharges and improvement surcharges.

C. The landlord shall permit the tenant to inspect the leased premises prior to the execution of the rental agreement.

§ 463-21 **Expiration of this Chapter.** The provisions of this Chapter shall expire three (3) years from the date of the final passage of the same.

Section 3

Effective Date

This ordinance shall take effect January 20, 2020.

Section 4

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged to be unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall remain in full force and effect.

Section 5

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.